PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 14447US01)

IN THE APPLICATION OF:	
Alexander G. MacInnis	**Electronically Filed on February 23, 2009**
SERIAL NO.: 10/611,451	
FILED: June 30, 2003	
FOR: IMPROVED SCALING BY EARLY DEINTERLACING	
EXAMINER: YENKE, BRIAN P	
GROUP ART UNIT: 2622	
CONFIRMATION NO.: 1633	
CUSTOMER NO.: 23446	

PRE APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reasons stated on the attached sheets.

Respectfully submitted,

Date: February 23, 2009

By: /Philip Henry Sheridan/
Philip Henry Sheridan
Reg. No. 59,918
Attorney for Applicants

REMARKS

The present application includes pending claims 16-27, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject mater.

Claims 16-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wells (U.S. Publication No. 2004/0057624) in view of Choi (U.S. Patent No. 7,206,025). The Applicants respectfully traverses the rejections for at least the following reasons.

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

> The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

> The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

With regard to independent claim 16, the combination of Wells in view of Choi at least fails to describe, teach or suggest, for example, "a video decoder, said video decoder further comprising...a deinterlacer for deinterlacing the decompressed video data, thereby resulting in deinterlaced video data; and a display engine, said display engine comprising: a scalar for scaling the deinterlaced video data; wherein the video decoder and the display engine are discrete components." Similarly, with regard to independent claim 22, the combination of Wells in view of Choi at least fails to describe, teach or suggest, for example, "a video decoder, said video decoder further comprising...a deinterlacer connected to the decompression engine, the deinterlacer operable to deinterlace the decompressed video data, thereby resulting in deinterlaced video data; and a display engine connected to the video decoder, said display engine comprising: a scalar operable to scale the deinterlaced video data; wherein the video decoder and the display engine are discrete components."

Wells teaches an integrated video decoding system that includes a decoder 202 and a post-processing stage 206. Wells' post-processing stage includes an integrated deblocking, temporal filtering and de-interlacing stage 208, and a shared memory 210. The Applicant notes that nowhere in Wells is there any disclosure of the de-interlacing occurring within the decoder 202 as opposed to in the integrated stage 208 of the post-processing stage 206.

With regard to scaling, certain embodiments of Wells discloses a scalar within the decoder 202. (*See, e.g.*, Wells, Paragraph [0043], Lines 16-19 and Paragraph [0048], Lines 3-7). In another embodiment of Wells, scaling is performed with de-interlacing. (*See, e.g.*, Wells,

Paragraph [0051], Lines 1-5). The Applicant notes that in the above embodiments, Wells cannot teach "a video decoder, said **video decoder further comprising**...**a deinterlacer** for deinterlacing the decompressed video data, thereby resulting in deinterlaced video data; and a display engine, said **display engine comprising**: **a scalar for scaling the deinterlaced video data**; **wherein the video decoder and the display engine are discrete components**," as recited in Applicant's independent claim 16 and similarly in Applicant's independent claim 22.

In yet another embodiment, Wells discloses that scaling is performed after temporal filtering and de-interlacing **in the single post-processing stage as opposed to within the decoder**. (*See e.g.*, Wells, Paragraph [0041], Lines 7-10). Thus, in the one embodiment where Wells teaches performing scaling after de-interlacing, Wells explicitly teaches that scaling is to be done in the single post-processing stage that includes the deinterlacing and is separate from the decoder in order to improve system efficiency. Thus, Wells teaches away from including the post-processing stage 206 within the decoder 202 by toting the advantages (i.e., improved system efficiency) of having a single post-processing stage that includes deblocking, scene classification, temporal filtering, deinterlacing and scaling. (Wells, Paragraphs [0039]-[0041]).

Choi fails to remedy the deficiencies of Wells. Choi, which is silent with regard to deinterlacing and scaling, appears to be cited for the purpose of integrating Wells' post-processing stage 206 into Wells' decoder 202. However, the Applicant's independent claims 16 and 22 recite "**wherein the video decoder and the display engine are discrete components**." In other words, Choi's teaching of integrating components teaches away from Applicant's discrete video decoder and display engine. Further, as discussed above, Wells' teaches away from integrating the single post-processing stage 206 into the decoder 202. Additionally, even if Wells' post-processing stage 206 was integrated into Wells' decoder 202, Wells' scaling function would also become integrated into the decoder. In other words, the combination of Wells and Choi cannot disclose "a video decoder, said **video decoder further comprising**...**a**

deinterlacer for deinterlacing the decompressed video data, thereby resulting in deinterlaced video data; and a display engine, said **display engine comprising**: **a scalar for scaling the deinterlaced video data**; **wherein the video decoder and the display engine are discrete components**," as recited in Applicant's independent claim 16 and similarly in Applicant's independent claim 22.

Therefore, for at least the reasons set forth above, the Applicant respectfully submits that the final Office Action's assertion that Applicant's claims 16-27 are unpatentable over Wells in view of Choi under 35 U.S.C. §103(a), amounts to clear error at least because the combination of Wells and Choi fails to disclose "a video decoder, said **video decoder further comprising**...**a deinterlacer** for deinterlacing the decompressed video data, thereby resulting in deinterlaced video data; and a display engine, said **display engine comprising**: **a scalar for scaling the deinterlaced video data**; **wherein the video decoder and the display engine are discrete components**."

Thus, Applicant respectfully submits that claims 16-27 of the present application should be in condition for allowance at least for the reasons discussed above and request that the outstanding rejections be reconsidered and withdrawn. The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

Date: February 23, 2009

/Philip Henry Sheridan/
Philip Henry Sheridan
Registration No. 59,918
Attorney for Applicant

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
(T) 312 775 8000
(F) 312 775 8100